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**MIDWIFERY COMMITTEE**

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**MEMBERS OF THE**  
**COMMITTEE**

*Hedy Chang, Chair*  
*Mary Lynn Moran, M.D.*  
*Barbara Yaroslavy*

**November 1, 2007**

Hilton San Diego Mission Valley  
Newport Ballroom  
901 Camino del Rio South  
San Diego, CA 92108  
(619) 543-9000

*Action may be taken on any  
item listed on the agenda.*

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**AGENDA**

10:30 a.m. – 11:30 a.m.  
(or until completion of business)

**ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

If a quorum of the Board is present, members of the Board who are not members  
of the Committee may attend only as observers

1. Call to Order
2. Approval of Minutes from the July 25, 2007 Meeting – Ms. Chang
3. Midwifery Advisory Council Update – Ms. Burns and Ms. Gibson, L.M.
4. Program Update – Mr. Qualset
5. Public Comment on Items Not on the Agenda
6. Adjournment

*The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act.*

*NOTICE: The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting shall make a request to the Board no later than five working days before the meeting by contacting Teresa Schaeffer at (916) 263-2389 or sending a written request to Ms. Schaeffer at the Medical Board of California, 1426 Howe Avenue, Suite 54, Sacramento, CA 95825. Requests for further information should be directed to the same address and telephone number.*

*Meetings of the Medical Board of California are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented in open session before the Board, but the Chair may apportion available time among those who wish to speak.*

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*For additional information, contact the Licensing Program at (916) 263-2382.*



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**Midwifery Committee**

**Embassy Suites  
 Tiburon/Sausalito Room  
 250 Gateway Boulevard  
 South San Francisco, CA 94080**

**July 25, 2007**

**MINUTES**

**Agenda Item 1 Call to Order**

The Midwifery Committee (Committee) of the Medical Board of California (Board) was called to order by Chair Hedy Chang at 5:00 p.m. A quorum was present and due notice had been mailed to all interested parties.

**Members Present:**

Hedy Chang, Chair  
 Laurie C. Gregg, M.D.  
 Barbara Yaroslavsky

**Staff Present:**

Billie Baldo, MST, Administrative Assistant, Licensing Program  
 Stacie Berumen, Staff Services Manager I, Licensing Program  
 Kathi Burns, Staff Services Manager I, Licensing Program  
 Kurt Heppler, Senior Counsel, Department of Consumer Affairs  
 Scott Johnson, Business Services Assistant, Business Services Office  
 Kim Kirchmeyer, Deputy Director  
 Armando Melendez, Business Services Assistant, Business Services Office  
 Kelly Nelson, Legislative Analyst, Legislative/Regulatory Unit  
 Gary Qualset, Chief, Licensing Program  
 Regina Rao, Analyst, Business Services Office  
 Kevin Schunke, Regulation Coordinator, Legislative/Regulatory Unit  
 Anita Scuri, Supervising Senior Counsel, Department of Consumer Affairs  
 Dave Thornton, Executive Director  
 Linda Whitney, Chief, Legislative/Regulatory Unit  
 Curt Worden, Staff Services Manager I, Licensing Program

**Members of the Audience:**

Bruce Ackerman, Midwives Alliance of North America (MANA)  
 Karen Ehrlich, L.M., Midwifery Advisory Council (MAC)  
 Faith Gibson, L.M., MAC, California College of Midwives  
 Diane Holzer, California Association of Midwives (CAM), MANA  
 Carrie Sparrevohn, L.M., MAC, CAM  
 Alison Worcester, L.M., Jade Lotus Midwifery Service

## **Agenda Item 2      Approval of Minutes from the April 26, 2007 Meeting**

It was M/S/C (Gregg/Yaroslavsky) to approve the minutes of the April 26, 2007, Committee meeting.

## **Agenda Item 3      Midwifery Advisory Council**

Mr. Qualset provided an update of the June 12, 2007, meeting of the MAC. The MAC revisited their Roles, Responsibilities, Mission, and Vision statements and made minor amendments before readopting the statements.

The remainder of the MAC meeting focused on continuing development of the Midwife Annual Report Coding System for collection of midwife practice data in California as mandated by Business and Professions Code section 2516.

Additionally, the MAC discussed the lack of a midwife assessment and clinical evaluation program for licensed midwives who need remedial training as an option for disciplinary resolution or for re-entry to practice after a long absence. Mr. Qualset suggested the Division of Licensing (DOL) and Committee request MAC members further evaluate the concept and develop options based upon their expertise in the profession.

Faith Gibson, L.M., Chair of the MAC, echoed Mr. Qualset's comments.

Ms. Yaroslavsky commended the professionalism and effectiveness of the MAC since its establishment.

### **A.      Midwife Annual Report Coding System Recommendation**

Ms. Burns presented the Midwife Annual Report Coding System and stated it was the expectation of the MAC that the Committee approve the system, in concept, and recommend the DOL do the same.

Ms. Gibson stated she thought the system accomplished the intent of the legislative mandate in capturing data related to the practice of midwifery in California.

Dr. Gregg asked if or how multiple diagnoses are captured on the reporting form. Ms. Gibson explained that at this point, midwives are directed to choose only one primary diagnosis or reason for transfer of a patient. This may be changed in the future if deemed necessary.

Ms. Yaroslavsky requested assurance from Ms. Gibson that the report coding system has been made available to midwives in California and by all major stakeholders of the midwifery community. Ms. Yaroslavsky also inquired about reimbursement possibilities from insurance companies for midwives and whether or not the coding system would be utilized by midwives for billing purposes.

Ms. Gibson explained that the MAC meetings have been well attended by midwives and midwifery association members who have had ample opportunity to provide input. The system has received general acceptance by the midwifery community. Information was made available and input was solicited through various e-mail groups and web sites, including the Board, and CAM web sites. She stated this report coding system will not be related or linked to any insurance reimbursement.

Ms. Sparrevohn raised concerns regarding the coding system, instructions, and form, as the MAC had approved the coding system at the June 12th meeting, but had been unable to review the document as a whole and offer revisions due to time constraints. She suggested that the system and related forms be sent back to the MAC for editing and finalization at their September 6, 2007, meeting.

Ms. Scuri encouraged consideration of a potential motion to approve the coding system document, in concept, and send it back to the MAC for final revision. Mr. Qualset stated bringing the process back to the MAC on September 6, 2007, would be good, although it would delay getting the reporting form out to the midwives.

It was M/S/C (Yaroslavsky/Gregg) to approve the coding system, in concept, and send it back to the MAC for final revisions and request the DOL approve and authorize the MAC to issue final approval of the coding system.

## **B. Annual Reporting Form**

Mr. Qualset introduced the Midwife Annual Reporting Form and instructions developed in collaboration with OSHPD, based upon the coding system developed by the MAC. Mr. Qualset advised the Committee that the form and instructions would be reviewed by the MAC at their September meeting and rollout of the form and instructions would follow shortly thereafter to allow licensed midwives ample time to complete the report and submit to OSHPD by March 31, 2008.

Ms. Burns asked the Committee to approve these documents, in concept, and, if needed, delegate authority to the MAC for final approval.

Ms. Scuri clarified the Board and DOL do not generally approve forms; thus, only the coding system requires approval.

Ms. Yaroslavsky questioned the intent of the statute requiring collection of midwifery practice data.

Ms. Gibson explained that during original conversations with Senator Liz Figueroa the legislative intent of this project was to gather data regarding the practice of midwifery to assist the Board in ensuring the safe practice of midwifery in California.

It was M/S/C (Yaroslavsky/Gregg) to approve the Midwife Annual Reporting Form and related instructions, in concept, and request the DOL grant the MAC the authority for final approval of the documents.

#### **Agenda Item 4      Program Update**

Mr. Qualset stated that earlier in the year all licensed midwives were informed of the new reporting requirements and that the information is posted on the Board's web site.

Pursuant to a request from Dr. Fantozzi, former President of the DOL and former Chair of the Committee, Mr. Qualset provided the following statistics regarding the licensing of midwives:

From July 1, 2006, through June 30, 2007, there were 9 licenses issued, 11 applications received, and 0 applications denied. There are 4 applications presently pending. 171 licenses are renewed and current, 17 delinquent, and 14 cancelled.

#### **Agenda Item 5      Public Comment on Items Not on the Agenda**

Ms. Gibson asked that a future topic for the MAC be to determine reasons why midwives are disciplined. This could be done by evaluating complaints made and disciplinary actions taken against licensed midwives. From that, a remedial program could be developed to address these issues, but more importantly, this information could be provided to training programs to educate licensed midwives early on, thus preventing the identified issues.

Mr. Qualset noted that it would be important that the members of the MAC research this topic and identify a process to accomplish this goal.

No further public comments were made.

#### **Agenda Item 6      Adjournment**

The meeting was adjourned at 6:00 p.m.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

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**DIVERSION COMMITTEE**

**Embassy Suites Hotel  
Tiburon/Sausalito Room  
250 Gateway Blvd.  
South San Francisco, CA 94010**

**July 26, 2007**

**Minutes**

**Agenda Item 1 Call to Order**

Dr. Gregg called the meeting to order on July 26, 2007, at 5:13 p.m. A quorum was present and notice had been sent to all interested parties.

**Members Present:**

Laurie Gregg, M.D., Chair  
Stephen Corday, M.D.  
Shelton Duruisseau, Ph.D.  
Janet Salomonson, M.D.

**Members Absent:**

Cesar Aristeiguieta, M.D.

**Staff Present:**

Frank Valine, Program Administrator, Diversion Program  
Dave Thornton, Executive Director  
Kimberly Kirchmeyer, Deputy Director  
Rhonda Baldo, Staff Services Analyst, Diversion Program

**Members of the Audience:**

Julie D'Angelo Fellmeth, Center for Public Interest Law  
Sandra Bressler, California Medical Association  
Lee Snook, California Medical Association  
David Pating, M.D., Chair, Diversion Advisory Council  
Tara Kittle

**Agenda Item 2 Approval of the April 26, 2007 Minutes**

It was M/S/C (Gregg/Duruisseau) to approve the minutes with amendments.

In order to remain consistent with the record, the agenda items presented in these minutes are listed in the order discussed at the July 26, 2007, meeting.

Dr. Gregg reported the Medical Board's primary mission is consumer protection and as the regulatory agency charged with the licensing of physicians and surgeons and enforcement of the medical practice act, the Board determined it is inconsistent with the Board's public protection mission and policies to operate a Diversion Program within or as part of its consumer protection programs. She stated that at the Board Meeting held prior to this committee meeting the following motions were passed:

- The Diversion Program, as it is currently structured and operated, be sunseted as soon as practical, but no later than the June 30, 2008.
- Effective immediately, the Medical Board of California develop a transition plan to continue the Diversion Program on an interim basis until the sunset date.
- The President of the Board convene a Diversion Program summit seeking input from the Diversion Advisory Council, regulatory experts, professional organizations, health care and patient consumer groups, public interest groups and other appropriate stake holders and experts to determine the most appropriate policy and mechanism for filling the Board's consumer protection mission while addressing the issue of impaired licenses. The results of the summit will be reported to the Board, no later than June 2008, for action by the legislature, as necessary, based upon the findings and recommendations.
- At the summit, the recommendations be considered for the establishment of a new state agency or similar agency to provide diversion monitoring programs for all California license professionals.
- The President of the Board and Chair of the Diversion Committee work with the author of the legislation on behalf of the Board.

Based upon these motions, the Committee determined that discussion on certain agenda items would be tabled.

### **Agenda Item 3      Bureau of State Audits' Recommendation Matrix Review**

No discussion occurred on this item.

### **Agenda Item 4      Diversion Program Policies and Procedures Manual Approval**

Dr. Gregg reported that she reviewed the Policies and Procedures Manual to ensure that all the auditor's recommendations were included. Since the Diversion Program will continue to function, Dr. Gregg recommends approval of the Policies and Procedures Manual. Dr. Salomonson expressed concern about the statement in the manual, "not all positive urine tests are relapses." Ms. Kirchmeyer stated that some positive urine tests are for approved prescription drugs from Schedules II to V, such as Naltrexone. If the physician is on an approved drug from Schedule II to V he or she cannot practice but it is not considered a relapse. In addition, the physician can have a positive for alcohol, but if the EtG is negative, that would not count as a relapse. Dr. Gregg stated that the investigation into a relapse happens after the physician is pulled off work. The Diversion Evaluation Committee (DEC) will review and determine if the positive is a relapse. The physician is off work during this time.

Dr. Salomonson was also concerned the DEC uses its discretion in determining whether a positive drug screen or a self reported use of mood altering or prescription drugs is a relapse. Ms. Kirchmeyer stated that the DEC makes a recommendation while the Program Administrator makes the final determination.

Dr. Gregg also assured the Committee that if the DEC determined the positive was not a relapse, they must provide written documentation on their decision why it was not a relapse which will be included in the participant's file. The DEC will be held accountable.

Julie D'Angelo Fellmeth, Center for Public Interest Law, gave Dr. Gregg and Ms. Kirchmeyer a list of amendments. Ms. Fellmeth indicated that there are several places in the manual where the term, "the physician will be suspended from the practice of medicine." This language implies that a suspension order was issued by the Board, which would be posted on the Web site. She suggested the language read, "the physician will be asked to cease the practice of medicine." Dr. Gregg directed staff to incorporate the change. Mr. Heppler suggested an additional amendment in the Policies and Procedures Manual where the language indicates "the DEC is the ultimate authority" be revised to say "the Program Manager retains that ultimate authority."

It was M/S/C (Duruissau/Corday) to approve the Policies and Procedures Manual with these amendments.

#### **Agenda Item 5          Diversion Advisory Council Update**

Dr. Gregg suggested deferring the discussion on regulations with the exception of the proposed regulation on the competency examination and when the Diversion Program would order such an examination.

Dr. Pating, Chair of the Diversion Advisory Council (DAC), reported the DAC was instituted to provide expertise. He added the DAC looked at Enforcement Monitor items 5, 6 and 12 and came up with suggestions; however, due to the Board's earlier motions, Dr. Gregg has decided to defer them at this time. He gave an overview of the DAC meeting held on June 12, 2007 and July 10, 2007.

He stated the DAC had developed and was recommending language for when to order a competency examination that could be put into regulation. Dr. Gregg stated that with the Board's earlier decision, this suggestion from the DAC could be put into the Diversion Agreement, rather than move through the regulatory process.

It was M/S/C (Duruissau/Corday) to take the clinical competency language that was drafted and insert it into the Diversion Program Agreement signed by the Diversion Program and participating physician.

#### **Agenda Items 6, 7 and 8**

No discussion occurred on these items.

#### **Agenda Item 9          Diversion Program Update**

It was M/S/C (Gregg/Duruissau) to approve Dr. Chavez for reappointment.

Mr. Valine stated that there are new reporting forms for the worksite/hospital monitors. He also stated the case managers traveled throughout the state to meet with worksite/hospital monitors to explain their



role. All worksite/hospital monitors signed new Worksite Monitor Agreements and as of July 2, 2007, there are no worksite/hospital monitors with a conflict of interest. Dr. Gregg stated for working participants, if they have a relapse, the program should contact the participant's worksite monitor to ask how many days per month they saw the participant. She stated the Committee needs assurance that those participants who are working are doing so safely.

**Agenda Item 10      Collection System Manager's Report**

Due to the importance of the reporting of positive urines, Dr. Gregg suggested the reports continue to be included in the Collection Systems Managers report. Dr. Gregg would also like a report of any drug tests that were not performed on the randomly assigned date.

**Agenda Item 11**

No discussion occurred on this item.

**Agenda Item 12      Agenda Items for November 2007 Meeting**

Dr. Gregg requested staff focus on the new quarterly report and additional items added to the report.

Dr. Gregg also asked the DAC to be involved in the preliminary thoughts of the transition plan for the diversion participants.

**Agenda Item 13      Public Comment**

Tara Kittle, health care consumer, encouraged the Diversion Committee in transferring their resources to a new committee based on the expressed commitment to physician wellness. She also stated the Committee should find other ways to help support an environment conducive to practicing safe medicine.

Dr. Gregg directed staff to work on a transition plan and if necessary a special meeting of the Diversion Committee be held in September.

**Agenda Item 13      Adjournment**

Dr. Gregg adjourned the meeting at 6:06 p.m.